IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

RP.No. 215 of 2007
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AGAINST THE JUDGEMENT IN OTAP.6/2006
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REVIEW PETITIONER/APPELLANT:
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MESSRS.RECKITT BENCKISER (INDIA)LTD.,
50/857-C,OPP.CRIME BRANCH OFFICE,CHANGAMPUZHA
SAMADHI ROAD,EDAPPALLY,ERNAKULAM 682 024
REPRESENTED BY COMMERCIAL MANAGER,(SOUTHERN
REGION), DEEPAK JAJODIA.

BY ADV. SRI. K.U. VIJAYAN

RESPONDENTS: RESPONDENTS/RESPONDENTS
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1. COMMISSIONER,COMMERCIAL TAXES,PUBLIC
OFFICE BUILDINGS,THIRUVANANTHAPURAM.

2. INTELLIGENCE OFFICER (IB),O/O.THE
DEPUTY COMMISSIONER (INT),DEPARTMENT OF
COMMERCIAL TAXES,ERNAKULAM AND PALARIVATTOM,
COCHIN 25.

3. THE SECRETARY TO GOVERNMENT,TAXES
DEPARTMENT,GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI MATHEW G. VADAKKEL

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD
ON 16/07/2007, THE COURT ON 09/08/2007 PASSED THE
FOLLOWING:

K.S. RADHAKRISHNAN & K. PADMANABHAN NAIR, JJ.

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R.P. 215 of 2007 in O.T.A. No 6 of 2006

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Dated: 9th August, 2007

O R D E R

Radhakrishnan, J.

This review petition has been preferred stating that this court had omitted to examine the contention of the petitioner with regard to rate of tax payable in respect of Mortein insect killers, Harpic and Lizol and Dettol Antiseptic. Petitioner did not press the claim regarding Harpic Toilet cleaner and Lizol Flour cleaner. Petitioner submits that Mortein insect killers is taxable only at the rate of 4% as an item falling under entry 44(5) of third schedule of HSN Code 3808.10.37 and Dettol antiseptic would fall under entry 36 (8) (h) (vi) of the Third Schedule and the rate of tax is only 4% under HSN Code No 3004.90.

2. We have examined in detail the scope of HSN Code and the statute with reference to Customs Tariff Act. On perusing the HSN Code and the product that is Mortein insect killers, those items are mosquito repellents and are taxable at the rate of 12.5% since that

commodity is not specifically covered either by Schedule II or Schedule III. Same can be charged on the strength of Rule 6 (1) (d) of Kerala VAT Act. Further it may also be noted that the HSN Code in entry 44 (5) of Third Schedule was also deleted by the Finance Act, 2006. The rate of tax applicable is 12.5%. With regard to Dettol antiseptic it would fall under serial number 103 (residuary) of the list by SRO 82/06 and taxable at 12.5%. Review petition is disposed of as above.

Sd/-
K.S. RADHAKRISHNAN,
Judge

Sd/-
K. PADMANABHAN NAIR
Judge

09/08/2007
en

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